

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JUDITH VAN HORN

PLAINTIFF

V.

CIVIL ACTION NO.1:08CV1442 LTS-RHW

**STATE FARM FIRE INSURANCE COMPANY,
JOHN BATES, AND JOHN DOES 1-10**

DEFENDANTS

ORDER REQUIRING STATEMENT OF CITIZENSHIP OF JOHN BATES

In preparing to assess the merits of John Bates's (Bates) motion [5] to dismiss or in the alternative for summary judgment, I have taken note that Bates's citizenship has not been alleged in the complaint nor disclosed to the Court in State Farm Fire and Casualty Company's (State Farm) December 1, 2008, notice of removal. The complaint indicates that Bates may be served with process at a Bay St. Louis, Mississippi, address.

I am not prepared to rule on the pending motion [5] until I have met my duty to assure that this Court has jurisdiction of this case on grounds of diversity of citizenship, 28 U.S.C. §1332, the jurisdictional basis cited in the notice of removal.

As the party relying upon this Court's subject matter jurisdiction, State Farm has the burden of showing that its removal is proper. Although State Farm asserts that Bates's citizenship should be disregarded because he was "fraudulently and improperly joined," that assertion has not yet been established in the record before me. Bates's motion [5] is addressed to the merits of the plaintiff's claim, and I have no authority to make a ruling on that motion unless I have subject matter jurisdiction of this case.

Accordingly, it is

ORDERED

That State Farm Fire and Casualty Company shall, within ten days of the date of this order, file a verified statement of John Bates's citizenship as of December 1, 2008, the date this action was removed from the Circuit Court of Hancock County, Mississippi.

SO ORDERED this 3rd day of June, 2009.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE